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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/899,432 | 07/06/2001 | Robert Kleiman | 511-051 | 3374 |

39602 7590 03/29/2006
NOBLITT & GILMORE, LLC.
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE, AZ 85251

EXAMINER

KANTAMNENI, SHOBHA

ART UNIT PAPER NUMBER

1617

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Miscellaneous Office Letter

This letter is in response to the applicant's response filed on 12/16/2005.

Newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Newly submitted claims, i.e amended claims are directed to a composition for treating virus, whereas the originally elected claims are drawn to a method of treating virus-induced and inflammatory diseases.

As discussed in the restriction and/or election requirement mailed on 10/01/2002, Inventions are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the method of treating virus-induced and inflammatory skin conditions may be practiced with a materially different product such as topical acyclovir cream.

Note: In the response filed on 01/23/2003, applicant has elected to pursue invention drawn to a method of treating virus-induced and inflammatory skin conditions.

Since applicant has received an action on the merits for the originally presented invention, drawn to a method of treating virus-induced and inflammatory skin conditions, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, newly amended claims 2, 5, 14, 17, 20, 23, 26, 29, 32, 35, 86,

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89 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a *bone fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

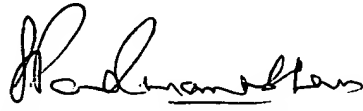
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shobha Kantamneni whose telephone number is 571-272-2930. The examiner can normally be reached Monday-Friday on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shobha Katamneni
Patent Examiner


SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER